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STE A206  
SAN JOSE CA 95131

In re Application of:  
Romeo S. Linn, et al.  
Application Serial No.: 10/707,714  
Filed: January 6, 2004  
For: **OBJECT APPROACHING DETECTION  
ANTI BLIND E-MIRRORS SYSTEM**

**MAILED**

**JAN 12 2006**

**DIRECTOR'S OFFICE  
TECHNOLOGY CENTER 2600**

**DECISION  
ON PETITION**

This is a decision on the petition filed on November 7, 2005, which is treated as a petition to invoke the supervisory authority of the Director in accordance with 37 C.F.R. §1.181, and in essence, requests reconsideration of the Director's earlier decision. No fee is required.

Applicants again request the substitution of examiners to examine their application stating of the current examiner "...the examiner has a very cool attitude", "He don't care, and don't want to communicate with us", "His negative attitude makes him very slow productivity", "'Over workload' is a common excuse to ignore monitoring each employee performance and checking customer service satisfaction ratio. That lead to spoil some employees' careless, mean, non-responsible, apathy, destructive retaliation attitude, especially to whom act himself like a king", etc.

The aforementioned comments all reflect applicants' perception of the examiner, the examiner's attitude or applicants' opinions of the Office in general. However, the aforementioned remarks do not point to any specific error with respect to the examiner's examination of the subject application.

A review of the record reveals that the petition to grant "Special" status to the subject application, filed January 23, 2005, was granted on February 9, 2005. Preliminary amendments were filed on March 22 and April 19, 2005. A notice of Non-Compliant amendment was mailed on April 26, 2005. On June 7, 2005, applicants filed another preliminary amendment. An action on the merits was mailed July 18, 2005. Subsequent to the non-final Office action, an amendment was filed on October 17, 2005, another on October 20, 2005 and the subject petition on November 7, 2005.

With respect to applicants' comments regarding a "retaliation attitude", the sole Office action accurately reflected the informal nature of applicants' specification and claims. The Office action even noted the fact that it was apparent that applicants were unfamiliar with patent prosecution and recommended applicants seek the assistance of a registered patent attorney. Otherwise, an Office action addressing applicants' latest amendment has not been mailed. Therefore, there is no evidence of an alleged "retaliation attitude" to warrant a new examiner.

With respect to applicants' comments regarding slow productivity, each correspondence that applicants submit to the Office must be considered in turn. Between the mailing of the petition decision granting the subject application special status and the mailing of the non-final Office action, three different amendments were submitted by applicants. Subsequent to the non-final

Office action of July 18, 2005, applicants have submitted two amendments and the subject petition. Applicants' initial response of October 18, 2005 initiated the time period for examiner's response. However, the subject petition requires review and decision, before the next Office action can be mailed. Therefore, there is no evidence that the examiner of record has purposely delayed action on the subject application.

Therefore, applicants' allegations of a "retaliation attitude" and purposely delaying action on the subject application, are unfounded.

As indicated in the petition decision mailed July 18, 2005, it is the Office's prerogative to assign applications to examiners without influence from an applicant. Also, as indicated in the examiner's initial Office action, it is apparent that applicants are unfamiliar with patent prosecution. While applicants may prosecute an application on their own, the patent application process is complex. Failure on an applicant's part to comply with various rules and/or requirements, may result in delays in prosecution, greater expense and potentially result in abandonment of the application. Unfamiliarity with patent prosecution could also lead to frustration and misperception on an applicant(s) part, regarding the handling of their application.

In the instant application, a cursory review of applicants' recent amendments reveal submissions which contain, for example, non-compliant amendments with respect to rules 37 C.F.R. §§1.121 and 1.125, a substitute specification which does not have a detailed description (i.e., enabling one skilled in the art to make and/or use the invention as required by 35 U.S.C. §112, 1<sup>st</sup> paragraph) and claims with either functional language (e.g., "Whereby said micro front end module, a key visual component of the Owl's eye camera, has the smallest dimensions in the world among all water proof safety view precision cameras", claim 5), combination of two statutory classes (i.e., a method of mounting/tilting cameras {see claims 11 and 12} within an optoelectronic visual system {claim 1}) or claims having "optional" limitations (e.g., see claim 16), thus not satisfying 35 U.S.C. §112, 2<sup>nd</sup> paragraph.

Appointment of a new examiner would not cure the deficiencies noted above, but would only foster applicants' opinion of a "retaliatory" attitude within the Office, given that more than likely, the next Office action will appropriately be held as a "final" Office action as a result of applicants amendments.

Therefore, given the lack of evidence that the examiner has erred in the handling of the subject application, the petition is **Denied**.

Petitioners also refer to a telephone conversation between applicants and the examiner on October 17 regarding submission of applicants' re-written specification and the examiner's refusal to accept the submission via e-mail. According to the statement in the subject petition "We were really frustrated!".

From the dialog presented by petitioners, it is apparent that applicants were insistent that the examiner accept an e-mail submission. However, examiners are prohibited from accepting official papers relating to a pending application, see MPEP §502 excerpted below. All official communication must either be mailed to the Office's correspondence address (see MPEP §501, excerpted below), faxed to the Office's central fax number (571-273-8300) or hand delivered to the Office's walk-up window (see MPEP §502 excerpted below).

MPEP §501 [R-3] Filing Papers With the U.S. Patent and Trademark Office,  
states in part:

37 CFR 1.1. Addresses for non-trademark correspondence with the  
United States Patent and Trademark Office.\*\*>

- (a) In general. Except as provided in paragraphs (a)(3)(i), (a)(3)(ii) and (d)(1) of this section, all correspondence intended for the United States Patent and Trademark Office must be addressed to either "Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450" or to specific areas within the Office as set out in paragraphs (a)(1), and (a)(3)(iii) of this section. When appropriate, correspondence should also be marked for the attention of a particular office or individual.<

(1) Patent correspondence.

- (i) In general. All correspondence concerning patent matters processed by organizations reporting to the Commissioner for Patents should be addressed to:

Commissioner for Patents,  
PO Box 1450,  
Alexandria, Virginia 22313-1450.

### I. GENERAL MAILING ADDRESSES

The U.S. Patent and Trademark Office (Office) has three separate general mailing addresses. The addresses are as follows:

A. For Patent Applications and Patent-Related Papers

Correspondence in patent-related matters under the direction of the Commissioner for Patents should be addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Such correspondence includes: patent applications, replies to notices of informality, requests for extension of time, notices of appeal to the Board of Patent Appeals and Interferences (the Board), briefs in support of an appeal to the Board, requests for oral hearing before the Board, >applications for< extensions of term of patent, requests for publication of Statutory Invention Registration (SIR), requests for reexamination, statutory disclaimers, certificates of correction, petitions to the Commissioner for Patents, submission of information disclosure statements, petitions to institute a public use proceeding, petitions to revive abandoned patent applications, and other correspondence related to patent applications and patents which is processed by organizations reporting to the Commissioner for Patents...

MPEP §502 [R-3] Depositing Correspondence, also states in part:...

All applications (provisional and nonprovisional) may be sent to the U.S. Patent and Trademark Office by mail (see MPEP § 501), or they may be hand-carried to the Customer >Service< Window. >New utility patent applications and provisional applications can also be filed via the Office's Electronic Filing System (EFS). See MPEP § 1730, subsection II.B.< A continued prosecution application (CPA) filed under 37 CFR 1.53(d) (available for design applications only), amendments, and other papers may be sent to the U.S. Patent and Trademark Office by mail (see MPEP § 501), by facsimile (see MPEP § 502.01) or hand-carried to the Customer >Service< Window.

Any correspondence sent to the U.S. Patent and Trademark Office should include the sender's return address and ZIP Code designation. For correspondence hand-delivered to the Office, see subsection II. below...

### II. HAND-DELIVERY OF PAPERS

No official paper which relates to a pending application may be personally delivered to a TC except papers that are directed to an

application subject to a secrecy order pursuant to 35 U.S.C. 181, or are national security classified and that are directed to Licensing and Review. Effective December 1, 2003, all official patent application related correspondence for organizations reporting to the Commissioner for Patents (e.g., TCs, the Office of Patent Publication, and the Office of Petitions) that is hand-carried (or delivered by other delivery services) must be delivered to the Customer >Service< Window, with a few exceptions. [emphasis added]

### III. HAND-DELIVERY OF PAPERS

Patent-related papers \*\* may be hand-carried to the Office. If the correspondence is hand-carried to the Office, >with limited exceptions (see subsection I.A., above)< it must be delivered to\*\*: \*\*>

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314<

All mailed communications are received by the Incoming-Mail Section of the Office of Initial Patent Examination (OIPE), which opens and distributes all official mail. [emphasis added]

It is apparent that the examiner's proper refusal to accept the formal submission via e-mail, and applicants' unfamiliarity with the rules that prohibit examiner's from receipt of such communication, directly contributed to applicants admitted frustration.

However, although applicants have failed to successfully justify the need for a different examiner, applicants have raised concern with respect to the level of customer service provided. Applicants are welcomed to contact the examiner's immediate supervisor, Mehrdad Dastouri at (571) 272-7418 regarding any future concerns.

The application file will be delivered to the examiner for action on the amendment submissions of October 17<sup>th</sup> and October 20<sup>th</sup>.



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Andrew Faile  
Director, Technology Center 2600